



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	05/16/01	Bill No:	SCA 5
Tax:	Local taxes	Author:	Torlakson
Board Position:		Related Bills:	

BILL SUMMARY

This bill, a constitutional amendment that would require statewide majority voter approval prior to going into effect, would allow local governments to impose a transactions and use tax for transportation funding with the approval of a majority of its voters. This bill would also permanently establish the "Transportation Investment Fund" in the State Treasury.

ANALYSIS

Current Law

Under the existing Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code), counties are authorized to impose a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters.

Proposition 62, passed by the voters on November 4, 1986, established new requirements for the adoption of new or higher general and special taxes by local agencies. The measure specifically required that all proposals for new general taxes be approved by a majority of the voters, and that a tax for specific purposes be approved by two-thirds of the voters. In a 1995 court decision, *Santa Clara County Local Transportation Authority v. Guardino*, the California Supreme Court upheld the two-thirds voter approval provision of Proposition 62, subjecting many of these taxes to the higher voter approval requirement when the taxes are due for reauthorization.

Section 7285 of the Transactions and Use Tax Law allows counties to levy a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either $\frac{1}{4}$ or $\frac{1}{2}$ percent, with majority voter approval.

When Section 7285 was enacted in 1987, several appellate court opinions indicated that if a district tax was levied by a special district and the revenues placed in the general fund of that district (rather than a special account) the tax was a general tax,

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not a special tax, and so did not require two-thirds voter approval. The decision in *Rider v. San Diego* (1991) 1 Cal.4th 1, clarified that a tax levied by a special-purpose agency is a special tax, requiring two-thirds voter approval.

Chapter 91, Statutes of 2000 (AB 2928, Torlakson) transfers the state's share of revenue from the sales tax on gasoline to a newly established Transportation Investment Fund, for the five-year period from July 1, 2001 to June 30, 2006 to fund statewide transportation needs. A specified amount of the revenues in the Fund is allocated on a quarterly basis to fund specific transportation projects, and the remainder is allocation as follows: (a) 40% to the Department of Transportation (CalTrans) for capitol improvement projects in the State Transportation Improvement Program, (b) 40% to cities and counties for subventions for maintenance, rehabilitation, and reconstruction work on local streets and roads, and (c) 20% to the Public Transportation Account for transit and rail purposes.

Proposed Law

This bill would add Section 16 to Article XI of the California Constitution to allow a local government, with the approval of a majority of its voters, to impose any special tax that is imposed exclusively for purposes of funding transportation projects and services. This bill would also amend Section 4 of Article XIII A, Section 2 of Article XIII C, and Section 3 of Article XIII D to conform to the provision that adds Section 16 to Article XI.

This bill would also add Section 3 to Article XIX to permanently establish the Transportation Investment Fund in the State Treasury.

This Constitutional amendment must be approved by a majority of California voters. Upon passage in the Senate and Assembly, this bill would be put on the next statewide ballot.

COMMENTS

- 1. Sponsor and purpose.** This bill is sponsored by the author in an effort to ensure that taxes drivers pay at the gas pump will go directly to meet the state's transportation needs, and require a majority vote instead of two-thirds vote to pass or extend any transportation tax, including local transportation transactions and use taxes.
- 2. This bill could change the vote requirement for local transactions and use taxes.** This bill would amend the state Constitution to require a majority vote to pass or extend local transportation transactions (sales) and use taxes. Nearly all of those taxes were initially passed by a majority vote, but a subsequent court decision now requires two-thirds voter approval. This Constitutional amendment must be approved by a majority of California voters before the new voter-approval threshold could go into effect.

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COST ESTIMATE

This bill by itself would not result in additional costs to the Board. Counties are required to contract with the Board to perform functions related to the transactions and use tax ordinance, and reimburse the Board for its preparation costs to administer the ordinance as well as the costs for the Board's ongoing services in actually administering the ordinance.

REVENUE ESTIMATE

To the extent that this bill makes it easier for local governments to impose or extend local transactions and use taxes, this bill, if approved statewide, would increase local government transportation revenues. The revenue impact would be specific to each local government that approved a tax.

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